IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

     Moore

Serial No.: 10/642,309

Filed: August 18, 2003

Confirmation No.: 1974

Group Art Unit: 2194

Examiner: Wu, Qing Yuan

Docket No.: 60707-1330

For: **Operating System for Executing Computer Software Applications**

REMARKS IN SUPPORT OF PRE-APPEAL BRIEF CONFERENCE

Mail Stop Appeal Brief
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

     Applicant submits the following remarks in support of a Request for Pre-Appeal Brief Conference.

     It is believed no extension of time is required. However, in the event that extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required (including fees for net addition of claims) are hereby authorized to be charged to deposit account no. 50-0835.

REMARKS

Applicant submits the following remarks in view of the final Office Action mailed January 21, 2009. Claims 1 – 5, 7 – 22, and 24 – 34 remain pending.

I.   Rejections Under 35 U.S.C. §102

A.   Claim 1 is Allowable Over *Silberschatz*

The Office Action indicates that claim 1 stands rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Silberschatz, *et al.*, "Applied Operating System Concepts," First Edition, John Wiley & Sons, Inc., 2000; pages 36-37, 77-82, 95-113, 567-574, 706-708, 719-735, 751-758 ("*Silberschatz*"). Applicant respectfully submits that claim 1 is allowable over the cited art for at least the reason that *Silberschatz* does not disclose, teach, or suggest "*performing processing by the second task object in response [to] the message receipt*; *returning the message to the first task object interface upon completion of processing*; and *returning the message from the first task object interface to the message pool interface*" as recited in claim 1.

More specifically, the Office Action argues that Silberschatz teaches "when the mailbox/message pool object is owned by a process, such as the first process P1, return/reply messages to the mailbox is a return to the first process as well" (FOA page 3, line 18). Applicant respectfully disagrees. More specifically, claim 1 recites "*returning the message to the first task object interface upon completion of processing*… [and] *returning the message from the first task object interface to the message pool interface*." However, *Silberschatz* discloses:

A mailbox may be owned either by a process or by the operating system. If the mailbox is owned by a process (that is, the mailbox is part of the address space of the process), then we distinguish between the owner (<u>who can only receive messages through this mailbox</u>) and the user of the mailbox (<u>who can only send messages to the mailbox</u>). Since each mailbox has a unique owner, there can be no confusion about who should receive a message sent to this mailbox. When a process that owns a mailbox terminates, the mailbox disappears. <u>Any process that subsequently sends a message to this mailbox must be notified that the mailbox no longer exists</u>.

(<u>Emphasis added</u>).

As illustrated in this passage, *Silberschatz* discloses that a process can either only receive messages <u>or</u> can only send messages. Consequently, *Silberschatz* <u>cannot</u> suggest (and in fact, teaches away from) "***returning the message to the first task object interface upon completion of processing***" as recited in claim 1 for at least the reason that each process "can only receive messages" or "can only send messages."

The Office Action additionally argues "when the mailbox/message pool object is owned by a process, such as the first process P1, the return/reply messages to the mailbox is also a return to the first process... More specifically, any subsequent uses of the mailbox (object) in exchanging messages between a first and second task object satisfy the limitation" (FOA page 10, line 6). Applicant disagrees. More specifically, *Silberschatz* never suggests return/reply messages. As indicated in the section cited by the Office Action (§4.5.2.2), *Silberschatz* merely discloses two primitives: "send" and "receive" (line 8) and only discusses an example where a message is sent. *Silberschatz* however, never even alludes to an example where a return/reply is sent. Further, as cited above, *Silberschatz* discloses "we distinguish between the owner (<u>who can only receive messages through this mailbox</u>) and the user of the mailbox (<u>who can only send messages to the mailbox</u>)." As illustrated in this passage, one can only conclude that return/reply messages are simply not contemplated by *Silberschatz*. For at least these reasons, *Silberschatz* fails to meet the requirements for a proper rejection under 35 U.S.C. §102. Similar arguments may be applied to independent claim 18.

B.   **Claims 2 – 5, 7 – 12, 16 – 17, 19 – 22, 24 – 29, and 33 – 34 are Allowable Over *Silberschatz***

The Office Action indicates that claims 2 – 5, 7 – 12, 16 – 17, 19 – 22, and 33 – 34 stand rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Silberschatz, *et al.*, "Applied Operating System Concepts," First Edition, John Wiley & Sons, Inc., 2000; pages 36 – 37, 77 – 82, 95 – 113, 567 – 574, 706 – 708, 719 – 735, 751 – 758 ("*Silberschatz*"). Applicant respectfully traverses this rejection on the grounds that *Silberschatz* does not disclose, teach, or suggest all of the claimed elements. More specifically, dependent claims 2 – 5, 7 – 12, and 16 – 17 are believed to be allowable for at least the reason that these claims depend from allowable independent claim 1. Dependent claims 19 – 22, 24 – 29, and 33 – 34 are believed to be allowable for at least the reason that these claims depend from allowable independent claim 18. *In re Fine, Minnesota Mining and Mfg.Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002).

II.   **Rejections Under 35 U.S.C. §103 – Claims 13 – 15 and 30 – 32 are Allowable Over *Silberschatz* in view of *Jaworski***

The Office Action indicates that claims 13 – 15 and 30 – 32 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Silberschatz, *et al.*, "Applied Operating System Concepts," First Edition, John Wiley & Sons, Inc., 2000; pages 36 – 37, 77 – 82, 95 – 113, 567 – 574, 706 – 708, 719 – 735, 751 – 758 ("*Silberschatz*") in view of Jamie Jaworski, "JAVA 1.1 Developer's Guide," Second Edition, Sams.net Publishing, 1997: pages 90 – 96 ("*Jaworski*"). Applicant respectfully traverses this rejection for at least the reason that *Silberschatz* in view of *Jaworski* fails to disclose, teach, or suggest all of the elements of claim 13 – 15 and 30 – 32. More specifically, dependent claims 13 – 15 are believed to be allowable over *Silberschatz* for at least the reason that these claims depend from allowable independent claim 1. Dependent claims 30 – 32 are believed to be allowable over *Silberschatz* for at least the reason that they depend from allowable independent claim 18. Because *Jaworski* fails to overcome the deficiencies of *Silberschatz*, claims 13 – 15 and 30 – 32 are allowable as a matter of law. *In re Fine, Minnesota Mining and Mfg.Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002).

III.   **Conclusion**

    As is apparent from the foregoing, the cited art is woefully deficient in rendering the pending claims unpatentable.   Accoridngly, application of *Silberschatz* in view *Jaworski* against the pending claims under 35 U.S.C. §102 or 103 rises to the level of clear legal and/or factual error. Applicant therefore requests that the rejections of the final Office Action be withdrawn and a new, non-final Office Action, or Notice of Allowance, be issued.

Respectfully submitted,

THOMAS, KAYDEN, HORSTEMEYER
& RISLEY, L.L.P.

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